bility, according to one view, was whether or not the opinion was expressed upon the exact question which the jury was required to decide. If it was, the evidence was inadmissible. *Yost* v. *Conroy,* 92 Ind. 464. The principal case affirms this rule and there is authority for the decision in *Lehman* v. *Knott* (Ore., 1921), 196 Pac. 476, and in *Pointer* v. *Klamath Falls Land Co.,* 59 Ore. 438, Ann. Cas. 1913C, 1076. The reason of the rule is that such opinions usurp the functions of the jury. The court observed that if the jury believed the testimony of the witness and had confidence in his judgment then nothing remained for it to do except to determine what the amount of the damages should be. Where the only practicable method of making proof of the fact in issue is by means of opinion evidence, it is doubtful whether the Oregon court would adhere to the doctrine of the principal case. See *Lehman* v. *Knott, supra.* Many cases have held that opinion evidence may be given upon the very issue. *American Agricultural Chemical Society* v. *Hogan,* 213 Fed. 416; *Cook* v. *Doud Sons & Co.,* 147 Wis. 271; *Poole* v. *Dean,* 152 Mass. 589; *Taylor* v. *Kidd,* 72 Wash. 18. See also 20 MICH. L. REV. 360.

INNKEEPERS—LIABILITY TO ONE WHO RESORTS TO INN FOR UNLAWFUL PURPOSE.—Plaintiff on invitation of a guest was going to the latter's room at defendant's inn to play cards for money. The elevator was in a dark place and the door to the shaft was open while the carriage was on another floor. For injuries received from stepping through the door and falling nine or ten feet down the shaft plaintiff sued defendant innkeeper. *Held,* that one entering an inn for an unlawful purpose is not an invitee, but a mere trespasser to whom the innkeeper owes no duty except not to wilfully or wantonly injure him. *Jones* v. *Bland* (N. C., 1921), 108 S. E. 344.

It has been held that an innkeeper is not liable as such for money deposited with the night clerk by one who took a room at the inn for the night for an unlawful purpose. *Curtis* v. *Murphy,* 63 Wis. 4. The instant case extends this rule to one invited to the inn by a guest, not as to the loss of money or property, as to which defendant would of course not be an innkeeper even if the purpose of the visit were lawful, but as to the care owed such an invitee for his personal safety, as to which the innkeeper's liability does not differ from that to a guest. It would seem that a guest, or his invitee, becomes a trespasser when he enters the inn for any unlawful purpose. The recent case of *Newcomb Hotel Co.* v. *Corbett* (Ga. App., 1921), 108 S. E. 309, puts a proper limit on the innkeeper in holding that he acts at his peril in entering a room occupied by one registered as a guest in order to determine whether the occupant is there for a lawful purpose.

INSURANCE—DEATH BY SUNSTROKE IS ACCIDENTAL.—Plaintiff sued as beneficiary under a policy of insurance issued by defendant company to the plaintiff's deceased husband, insuring him against "loss resulting from bodily injuries effected directly, exclusively and independently of all other causes, through accidental means." The insured was overcome by sunstroke while

returning on foot from a mining claim, and died as a result. *Held,* that death by sunstroke was accidental within the meaning of the policy. *Richards* v. *Standard Acc. Ins. Co.* (Utah, 1921), 200 Pac. 1017.

The court seems to rest its decision on the ground that sunstroke is popularly considered as an accident, and, although technically it is a disease, the words in an insurance policy must be understood in their plain, ordinary and popular sense rather than their scientific meaning. And since the words must have been considered in their ordinary popular sense by the insured when he took out the policy, their meaning must be held to be the same when the policy is sued on. The authorities are not in harmony on this question, but there seems to be a tendency in the later decisions to hold that death by sunstroke is accidental. In *Sinclair* v. *Maritime Passengers Assurance Co.,* 3 Ell. & Ell. 478, it was held that sunstroke was a disease, and hence there could be no recovery under a policy insuring against accident. This case was followed in *Cont. Cas. Co.* v. *Pittman,* 145 Ga. 641, where it was held that sunstroke incurred while insured was performing his ordinary duties as fireman on a locomotive was not an accident. To the same effect is *Dozier* v. *Fidelity and Cas. Co. of N. Y.,* 46 Fed. 446. In accord with the principal case are *Bryant* v. *Cont. Cas. Co.,* 107 Tex. 582; *Higgins* v. *Midland Cas. Co.,* 281 Ill. 431, and *Railway Officials* v. *Johnson,* 109 Ky. 261. *Johnson* v. *Fidelity and Cas. Co. of N. Y.,* 184 Mich. 406, is in accord on principle, although the facts were somewhat different. In that case it was held that death as a result of ptomaine poisoning is covered by an accident policy providing for payment in case insured comes to his death as a result of an accident. See also a note in L. R. A. 1916 E 957. The *Higgins* case, *supra,* is commented on in 16 MICH. L. REV. 453, and 13 ILL. L. REV. 133.

INTERSTATE COMMERCE COMMISSION—POWER OVER INTRASTATE RATES.—Acting under the Transportation Act of 1920, the Interstate Commerce Commission ordered the railroads in a group, of which the Wisconsin roads were a part, to increase freight and passenger rates to a point considerably above rates allowed on intrastate traffic. Thereupon the carriers applied to the Wisconsin Railroad Commission for corresponding increases. That commission denied any increases in passenger fares on the ground that the state statute limited such fares to two cents a mile. From an interlocutory injunction granted to the railroads to enjoin the state commission from interfering with the maintenance of the fares ordered by the Interstate Commerce Commission the case was taken to the Supreme Court of the United States on appeal. *Held,* that the passenger fares limited by the Wisconsin statute are an "undue, unreasonable and unjust discrimination against interstate and foreign commerce" under the Transportation Act of 1920, which may be removed by the order of the Interstate Commerce Commission. *Railroad Commission of Wisconsin* v. *C., B. & Q. R. Co.* (U. S., Feb. 27, 1922).

This case, known as *Wisconsin Passenger Fares,* 59 I. C. C. 391, and a New York case decided the same day, *State of New York* v. *U. S. et al.,*